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BEFORE THE  
**Federal Communications Commission**  
 WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

IN THE MATTER OF:

MM DOCKET No. 97-225

***Amendment of 47 C.F.R. §73.202(b)***  
***Table of FM Allotments***  
*(Olney and Archer City, Texas)*

RM-9173

To: The Chief, Allocations Branch  
 Policy and Rules Division

**REPLY COMMENTS OF TEXAS GRACE COMMUNICATIONS**

Comes now **Texas Grace Communications** ("Texas Grace"), by Counsel, and pursuant to Section 1.415 of the Commission's Rules, hereby respectfully submits these Reply Comments in response to FCC *Public Notice* Report No. 2266 released April 3, 1998,<sup>1</sup> which listed Hunt Broadcasting, Inc.'s ("HBI") counter-proposal to the Texas Grace Rule Making proposal. Texas Grace proposes the reallocation of Channel 248C2 from Olney to Archer City, Texas, and the modification of Texas Grace's Radio Station KRZB (FM) construction permit to specify Archer City as its Community of License. In addition Texas Grace proposes the allotment of Channel 270C2 at Olney, Texas. In response to HBI's Counterproposal, the following is shown:

***Introduction - Background***

1. Pursuant to a Petition for Rule Making submitted by Texas Grace, the Commission issued the *NPRM* on October 31, 1997, proposing to amend the Table of FM Allotments Section 73.202(b) of the Rules, as follows:

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<sup>1</sup> Reply to said Counterproposal are due by April 20, 1998; copy of Notice is attached hereto.

**FM TABLE OF ALLOTMENTS**

<b><i>Community</i></b>	<b><i>Present</i></b>	<b><i>Proposed</i></b>
Olney, Texas	248C2	270C2
Archer City, Texas	-----	248C2

2. The Commission requested in the *NPRM* at page 3, that Comments be submitted by members of the public on the proposal on or before December 22, 1997 and Reply Comments on or before January 6, 1998. Texas Grace hereby incorporates by reference herein its original Petition, and Comments filed on December 22, 1997.

3. To the best of Texas Graces's knowledge, based upon the material received by Texas Grace and its counsel, and the customary search of the Commission's records, only one Comment and Counterproposal (other than Texas Grace's own comment) pertaining to the referenced Rule Making proposal was made to the Commission by the December 22, 1997 filing due date as set forth in the *NPRM*. This Comment and Counterproposal was filed by HBI, the Licensee of Radio Station KIKM-FM (formerly KDVE) Denison-Sherman, Texas, and the Permittee of Radio Station KJKB (FM), Jacksboro, Texas. On January 6, 1998, Texas Grace filed its Reply Comments responding to HBI's Comments and Counterproposal. The January 6th Reply is therefore incorporated by reference to this Reply.

4. Submission of this Reply is procedurally timely pursuant to the requirements set forth in the above-caption *Public Notice*. Furthermore, Reply Comments in this matter are procedurally *limited* to parties who are participants in this Rule Making (See generally *FM Channel Assignments* 68 RR 2d 1124 (1990) and 47 C.F.R. Section 1.420).

***No Opposition to Reallotment to Archer City, Texas  
or Replacement Channel for Olney, Texas***

5. In HBI's Comment and Counterproposal (hereinafter, "HBI's Comments"), the Commission should note that "HBI does not oppose the proposal of Texas Grace Communications ... to reallot Channel 248C2 from Olney to Archer City, Texas and modify the construction permit for Station KRZB, accordingly." (See HBI's Comments at page 1). HBI goes on to say that it "does not oppose allotting a replacement channel at Olney to provide a first local service" (See HBI's Comments at page 1).

6. The only concern expressed by HBI (by way of counterproposal) is the replacement channel on which Olney will receive its service. Specifically, HBI requested that service for Olney be on Channel 282C2, rather than Channel 270C2 as proposed in the *NPRM*.

7. Texas Grace noted in its Comments, at the time it filed its referenced August 7, 1997 Petition for Rule Making, the Commission's own engineering data base clearly allowed for utilization of Texas Grace's originally requested Channel 270C2 replacement service at Olney. However, HBI has claimed that the availability of Channel 270C2 was due to Commission "oversight", and that Texas Grace's usage of this channel was precluded by a plan HBI had previously instituted (See Counterproposal to MM Docket No. 97-104) to use 269C3 or C1 at Denison-Sherman, Texas, for a change of community move-in to Azle, Texas on Channel 269C.

8. Texas Grace noted in its Comments and Reply Comments that the Commission<sup>2</sup> on its own initiative, substituted Channel 282C2 for Channel 270C2 service at Olney. This Commission initiative provides a resolution to the only issue in

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<sup>2</sup> Note that the Commission's substitution to Channel 282C2 may make HBI's Counterproposal moot.

dispute. Texas Grace has previously affirmed a willingness to cooperate with the Commission to avoid any possible conflict<sup>3</sup>.

### ***Conclusion***

9. In review, the Commission should please note that there is no opposition on record from any party to Texas Grace's proposal to establish first aural transmission service to Archer City on Channel 248C2, nor has there been any opposition expressed regarding the reallocation of Channel 248C2 from Olney to Archer City, Texas to accomplish this. There has similarly been no opposition expressed to the allotting of a replacement channel at Olney to ensure a first local service in that community.

10. The only question raised in HBI's Counterproposal is which channel, 270C2 or 282C2, will be utilized to provide service to Olney, Texas. To this end, Texas Grace again affirms its desire to cooperate with the Commission towards establishing the most preferential arrangement of allotments, and generally avoiding conflict between parties.

11. To prevent any such conflict between the provision of first local services at Olney and Azle, or resultant conflict between Texas Grace and HBI, Texas Grace will accept the Commission's own solution to substitute allotment of Channel 282C2 service at Olney, but with one stipulation. That is, should the Commission elect to disallow HBI's Counterproposal, Texas Grace respectfully requests that Channel 270C2 service as originally proposed and accepted in the *NPRM* be allotted to Olney, Texas.

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<sup>3</sup> See Texas Grace's Comments at page 6 and Reply Comments at page 3.

**WHEREFORE**, Texas Grace respectfully urges consideration and acceptance of the of the forgoing Reply Comments.

Respectfully submitted,

**TEXAS GRACE COMMUNICATIONS**

By: 

David M. Hunsaker  
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Its Attorneys

April 20, 1998

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## CERTIFICATE OF SERVICE

I, Sharon L. Hinderer, a secretary in the law firm of *Putbrese, Hunsaker and Trent, P.C.*, do hereby certify that I have, on April 20, 1998, sent by first class U.S. Mail, postage prepaid, the forgoing "***Reply Comments of Texas Grace Communications***" to the following:

Ms. Pam Blumenthal  
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*Sharon L. Hinderer*

Sharon L. Hinderer



# PUBLIC NOTICE

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REPORT NO. 2266

April 3, 1998

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**OFFICE OF PUBLIC AFFAIRS**  
**REFERENCE OPERATIONS DIVISION**  
**PETITIONS FOR RULEMAKING FILED**

RM NO.	RULES SEC.	PETITIONER	DATE REC'D	NATURE OF PETITION
9250*	73.202(b)	Palouse Country, Inc  (Filed by J. Dominic Monahan, Attorney Luvase Cobb, Richards & Fraser Suite 200 777 High Street Eugene Oregon 97401)	02-09-98	Request Amendment of the FM Table of Allotments to substitute Channel 258C for Channel 258C1 at Pullamn, Washington at coordiantes 46-40-20; 116-58-19.

\*THE ABOVE PETITION FOR RULEMAKING WILL BE TREATED AS A COUNTERPROPOSAL IN MM DOCKET NO. 97-246. REPLY COMMENTS TO THIS COUNTERPROPOSAL SHOULD BE SUBMITTED IN THIS DOCKET NO LATER THAN 15 DAYS (RATHER THAN 30 DAYS) AFTER THE DATE OF THIS PUBLIC NOTICE.

RM NO.	RULES SEC.	PETITIONER	DATE REC'D	NATURE OF PETITION
9254*	73.202(b)	Hunt Broadcasting, Inc.  (Filed by Mark N. Lipp, Attorney Ginsburg, Feldman and Bress 1250 Connecticut Avenue, NW Washington, DC 20554)	12-22-97	Request Amendment of the FM Table of Allotments to substitute Channel 269C for Channel 269C3 at Denison-Sherman, Texas; the reallocation of Channel 269C from Denison-Sherman to Azle, Texas; and the modification of Station KIKM-FM's license accordingly, at coordinates 33-23-20; 97-43-03. Substitute Channel 282C2 for Channel 270C2 at Olney, Texas at coordinates 33-08-47; 98-52-00; substitute Channel 278C3 for Channel 267C3 at Wellington, Texas at coordinates 34-49-13; 100-14-29; substitute Channel 267C1 for Channel 268C1 at Lawton, Oklahoma at coordinates 34-32-31; 98-31-40 and modify the license of Station KLAJ accordingly; substitute Channel 299A for Channel 269A at Jacksboro, Texas at coordinates 33-14-14; 98-09-43 and modify the construction permit of Station KJKB accordingly.

\*THE ABOVE PETITION FOR RULEMAKING WILL BE TREATED AS A COUNTERPROPOSAL IN MM DOCKET NO. 97-225. REPLY COMMENTS TO THIS COUNTERPROPOSAL SHOULD BE SUBMITTED IN THIS DOCKET NO LATER THAN 15 DAYS (RATHER THAN 30 DAYS) AFTER THE DATE OF THIS PUBLIC NOTICE.